IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Bail Appl..No. 4086 of 2007()

C.R.NO.22 OF 2007 OF KATTAKKADA EXCISE RANGE

PETITIONER/ACCUSED IN CR.NO.22/07 OF KATTAKKADA EXCISE RANGE

SAROJINI, AGED 72 YEARS, D/O. JANAKI,
CHARUVILAKATHU HOUSE, KUCHUPPURAM,
AMACHAL DESOM, KULATHUMMAL VILLAGE,
NEYYATTINKARA TALUK, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.RAM MOHAN.G.
SRI.G.P.SHINOD
SRI.MANU V.

RESPONDENTS: COMPLAINANT IN CR.NO.22 OF 2007 OF KATTAKKADA EXCISE RANGE

STATE OF KERALA, REPRESENTED BY
ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4086 & 4095 of 2007

Dated this the 6th day of July 2007

O R D E R

Application for anticipatory bail. The common petitioner faces allegations under the Kerala Abkari Act in both cases. She is alleged to have kept in her possession Indian made foreign liquor - 6.680 litres in one case and 11.750 litres in the other case for the purpose of sale. She was intercepted by the officials; but as there was no women officials in the detecting party, her arrest could not be effected. The petitioner now apprehends arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. She is aged about 72 years. It would be idle to assume that such an old person would indulge in such crimes, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. There are no circumstances justifying the invocation of the jurisdiction under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the investigating officer

or the learned Magistrate and seek regular bail in the ordinary course, submits the learned Public Prosecutor.

4. I find the opposition by the learned Public Prosecutor to be totally justified. I find absolutely no reason to assume that the advanced aged of the petitioner is a sufficient ground ipso facto to throw overboard the case of the prosecution. The petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and seek the compassion of law under Section 437 Cr.P.C on the ground that she is a woman of advanced age.

5. In the result, these petitions are dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate having jurisdiction and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsrt // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007